

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

TONI GEVING, on behalf of herself
and all other similarly situated individuals,

Case No.: 11-cv-801 RHK/AJB

Plaintiff,

v.

Long Term Care Group, Inc.
d/b/a UNIVITA HEALTH,

Defendant.

NOTICE OF PENDENCY OF LAWSUIT

**TO: ALL CURRENT AND FORMER EMPLOYEES WHO ARE OR WERE
EMPLOYED BY LONG TERM CARE GROUP, INC. AT ANY TIME
FROM APRIL 1, 2008 TO FEBRUARY 26, 2011, AS A CUSTOMER
SERVICE TEAM LEAD, LEAD CUSTOMER SERVICE
REPRESENTATIVE AND/OR CALL CENTER LEAD.**

**RE: FAIR LABOR STANDARDS ACT LAWSUIT FILED AGAINST LONG
TERM CARE GROUP, INC. D/B/A UNIVITA HEALTH.**

DESCRIPTION OF THE ACTION

On March 31, 2011, an action was filed against Defendant Long Term Care Group, Inc. d/b/a Univita ("LTCG") on behalf of the above-named Plaintiff and all other similarly situated individuals who worked as Customer Service Team Leads, Customer Service Representatives and/or Call Center Leads for LTCG between April 1, 2008 and February 26, 2011, inclusive (collectively referred to as the "potentially similarly situated group"). Specifically, the action alleges that these individuals were misclassified as

exempt under the federal Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*, until February 2011, and therefore not paid proper overtime compensation for the hours worked in excess of forty (40) per week. Plaintiff and the potentially similarly situated group were reclassified as non-exempt in February 2011. LTCG denies Plaintiff’s allegations and maintains that Plaintiff and the potentially similarly situated group were correctly classified, and paid appropriately.

YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

The District Court has ordered this FLSA Notice be distributed to:

All persons who are or have been employed by Defendant Long Term Care Group, Inc. d/b/a Univita or Long Term Care Group, Inc. (collectively, “LTCG”) as a Customer Service Team Lead, Lead Customer Service Representative, and/or Call Center Lead, and who were classified as exempt employees under the FLSA at any time within the three years prior to this action’s March 31, 2011 filing date through February 26, 2011, and worked in excess of forty (40) hours in one or more workweeks during that period without receiving overtime pay.

If you fit this definition, you may choose to join this action by mailing or faxing the attached “Plaintiff Consent Form” to Plaintiff’s counsel at the following address:

NICHOLS KASTER, PLLP
Attn. Katherine M. Vander Pol
4600 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2242
Toll-Free Telephone: 1-877-448-0492
Facsimile: (612) 338-4878

If you wish to participate in the lawsuit, you **must** return this consent form by **September 3, 2011. Consent forms received after this date will not be accepted or filed with the Court.**

EFFECT OF JOINING OR NOT JOINING THIS LAWSUIT

If you choose to join this action, you and LTCG will be bound by any ruling, judgment, award or settlement, whether favorable or unfavorable. If you do not join this action, you will not be bound by any ruling, favorable or unfavorable. If you do not wish to join this action, you are not obligated to do so.

Your continued right to participate in this action will depend upon a later decision by the Court whether it is appropriate for this case to proceed as a collective action.

STATUTE OF LIMITATIONS

The FLSA has a statute of limitations of two (2) or three (3) years, depending on the circumstances. If you choose to join this action, or choose to bring your own action, you may be able to recover damages if you were improperly compensated within two or three years of the date you file your "Plaintiff Consent Form." If you choose not to join in this action or file your own action, some or all of your potential claims may later be barred by the applicable statute of limitations.

NO RETALIATION PERMITTED

The law prohibits retaliation against employees for exercising their rights under the FLSA. Therefore, LTCG is prohibited from discharging you or retaliating against you based on your decision whether to participate in this action.

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this case by filing a Plaintiff Consent Form, you will be agreeing to representation by Plaintiff's Counsel:

NICHOLS KASTER, PLLP
James H. Kaster
Katherine M. Vander Pol
Sarah W. Steenhoek
4600 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Toll Free Telephone: 1-877-249-0012
Facsimile: (612) 338-4878

The attorneys are being paid on a contingency fee and/or statutory basis, which means that if there is no recovery, there will be no attorneys' fees. If there is a recovery, the attorneys will receive a part of any settlement obtained or money judgment entered in favor of all members of the class. The specific terms and conditions of representation will be contained in a fee agreement entered into by the attorneys and you.

CONCLUSION

THIS NOTICE AND ITS CONTENT HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA, THE HONORABLE RICHARD H. KYLE, UNITED STATES DISTRICT COURT JUDGE. THE COURT HAS MADE NO DECISION IN THIS CASE ABOUT THE MERITS OF PLAINTIFF'S CLAIMS OR OF DEFENDANT'S DEFENSES.

Dated: July 6, 2011

s/ Richard H. Kyle

Richard H. Kyle
United States District Court Judge

**UNIVITA HEALTH
PLAINTIFF CONSENT FORM**

1. I consent to make a claim under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* against my current/former employer, Long Term Care Group, Inc. d/b/a UNIVITA HEALTH, to recover overtime pay.

2. Between April 1, 2008 and February 26, 2011, there were occasions when I worked over forty (40) hours per week as a Customer Service Team Lead, Lead Customer Service Representative, and/or Call Center Lead, and did not receive proper overtime compensation.

3. If this case does not proceed collectively, then I also consent to join any subsequent action to assert these claims.

4. I understand that I may withdraw my consent to proceed with my claims at any time by notifying the attorneys handling the matter.

Date: _____

Signature

Print Name

Please Print or Type Your Contact Information.

Address:

Street

City

State

Zip

Best Phone Number: _____ Email: _____

Return this form by fax or mail to:

**NICHOLS KASTER, PLLP
Attn: Katherine M. Vander Pol
4600 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Fax: (612) 338-4878**